IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7211 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AR BHATT & 4 - Petitioner(s)
Versus
PRINCIPAL JUDGE & 1 - Respondent(s)

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Appearance :
MR IS SUPEHIA for Petitioner(s) : 1 - 5.
MR MAULIK NANAVATI, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,
LAW OFFICER BRANCH for Respondent(s) : 1,
MR JB PARDIWALA for Respondent(s) : 1,
MR BR GUPTA for Respondent(s) : 2,
MR PARESH UPADHYAY for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 30/11/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India, the petitioners have prayed for

an appropriate writ, order and/or direction directing the respondent No.1 to delete the name of the respondent No.2 from the current select list prepared for the purpose of promotion to the posts of Superintendents in the City Civil Court, Ahmedabad.

2. It appears that earlier decision was by the respondents relying upon the judgment of the Hon'ble Supreme Court in case of ***Jagdishlal and Others V/s. State of Haryana and Others*** reported in ***AIR 1997 SC P.2366***. It appears that thereafter the law has been changed by subsequent two decisions i.e. in case of ***Ajit Singh and Others (II) V/s. State of Punjab and Others*** reported in **(1999) 7 SCC P.209** as well as the recent judgment of the Hon'ble Supreme Court in case of ***M. Nagraja and Another V/s. Union of India and Others*** reported in **(2006) 8 SCC P.212**. There is no dispute amongst the learned advocates appearing on behalf of the respective parties that in view of the aforesaid two decisions, the respondents authorities are required to reconsider the entire issue.

3. Under the circumstances, without expressing any opinion on the merits of the case, the respondents are directed to reconsider the entire issue and their earlier decision in light of subsequent two decisions of the Hon'ble Supreme Court referred to hereinabove. The said exercise to be completed within a period of 3 months from the date of receipt of this order and the outcome of the same be communicated to the respective concerned parties. In the peculiar facts and circumstances of the case, it will be open for the petitioners to request

for personal hearing and the same may be considered by the respondents. It will also be open for the respondents to have the audience from the persons, who are likely to be affected by any decision.

4.This petition is accordingly disposed of. Rule is discharged. No costs.

5.It goes without saying that if there is any adverse decision to the petitioners, then, it will be open for the petitioners to challenge the same before an appropriate forum which will be dealt with in accordance with law and on merits.

Direct Service is permitted.

[M.R.SHAH, J.]

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